

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P801180/WO/1	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/000726	International filing date (day/month/year) 28.01.2004	Priority date (day/month/year) 19.03.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant DAIMLERCHRYSLER AG		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>2</u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/000726

Box No. I

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 2-17 _____ as originally filed/furnished
- pages* 1, 1a _____ received by this Authority on 30.09.2004 with letter
- pages* _____ received by this Authority on of 08.07.2004
- ☒ the claims:
- nos. 1-11 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/000726

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2-11	YES
	Claims	1	NO
Inventive step (IS)	Claims		YES
	Claims	1-11	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. The present application fails to satisfy the requirements of PCT Article 33(1) because the subject matter of claim 1 lacks novelty (PCT Article 33(2)).

Document D1 discloses (the references in parentheses are to said document):

- 1.1 Claim 1: a method for operating a drive train in a motor vehicle, said drive train being provided with a drive motor, a transmission and a friction clutch between the drive motor and the transmission, a control device monitoring a state of the friction clutch (column 4, lines 58-69) and, on the basis of the monitoring results, an output torque of the drive motor being reduced (claims 1 and 3; column 7, lines 6-9), an amount of energy dissipated and/or a temperature of the friction clutch being determined by the control device in the event of a slipping friction clutch (column 8, lines 26-41), the amount of energy and/or the temperature being compared with

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

threshold values (column 5, lines 3-6) and the output torque of the drive motor being reduced if one or both thresholds are exceeded (column 6, line 7 to column 7, line 9) (see also claims 1, 3, 15 and 17).

In D1, the output torque of the drive motor is reduced as a function of the temperature (see D1, column 2, lines 50-57, claim 1 ("...varying the engine torque and...in such a manner that the temperature increase...is reduced in magnitude") and claim 15 ("...monitoring the temperature of the frictional slip clutch in order to avoid a heat overload").

2. The present application fails to satisfy the requirements of PCT Article 33(1) because the subject matter of claims 2-11 does not involve an inventive step (PCT Article 33(3)).

2.1 The features of claim 2 concern only minor structural modifications of the method according to claim 1, said modifications being of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. In consequence, the subject matter of claim 2, likewise, does not involve an inventive step.

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2.2 The features of claim 3 are described in their entirety in claim 2. Consequently, the subject matter of claim 3 does not involve an inventive step (see point 3.1).

2.3 Dependent claims 4-11 contain no features which, combined with the features of any claim to which they refer, meet the PCT requirements for novelty and/or inventive step.

The features of claims 4-11 relate to only one of several obvious possibilities from which a person skilled in the art would choose in order to realise a method for the operation of a drive train.